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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/687,940

10/17/2003

David M. Albert

1253/US5

9896

20686 7590 04/03/2007

DORSEY & WHITNEY, LLP  
INTELLECTUAL PROPERTY DEPARTMENT  
370 SEVENTEENTH STREET  
SUITE 4700  
DENVER, CO 80202-5647

EXAMINER

ZIRKER, DANIEL R

ART UNIT

PAPER NUMBER

1771

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

04/03/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

10/687,940

Applicant(s)

ALBERT, DAVID M.

Examiner

Daniel Zirker

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1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 14-61 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14-61 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. The Examiner would like to note for the record that in paragraph No. 5 of the initial Office Action on the merits, Paper No. 111705, it was inadvertently stated that four of the pending independent claims each lacked the presence of an adhesive layer on the opposing side of the grip enhancing material suitable for adhering the material to a desired object such as a glove. The Examiner meant to say, however, that the reference Albert, US 6,055,669 failed to teach such an adhesive layer. However, applicant does not appear to have misinterpreted what the Examiner intended to state, and in fact prosecution is believed to have continued in the manner that was intended without any significant misunderstandings.
3. Claims 14-61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Albert '669, taken either individually or in view of newly cited Fletcher, US 4,284,275 taken as evidence of the state of the art, substantially for the reasons set forth in Paragraph No. 2 of Paper No. 20060717, together with the following additional observations. More particularly, applicant's arguments (Response, pages 6-7) concerning the reference incorrectly state that the disclosure in Fig 5 and Col 4, lines 6-10 and 32-34 teaches the presence of an "adhesive" or adhesive layer **on the opposing side of the base as the suction cups** is incorrect. The adhesive taught in both Albert '669 and referred to in the present application teaches adhesive **on the same side**, not the opposite side of the base layer. Note, however, that the relied upon section of the present application to support the adhesive on the opposite side of the

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base layer is found substantially in the paragraph bridging pages 17-18 of the specification, and does not have a corresponding disclosure in the '669 patent.

Additionally, the Examiner again believes that it is proper to take Official Notice of the fact that (Response, page 8) "using an adhesive layer to attach a grip enhancing material to a desired object is well known", a position strongly disagreed with by applicant. Accordingly, in support thereof the Examiner cites Fletcher (note particularly Fig. 1, the Abstract, Col 2, line 65-Col 3, line 5, lines 44-46, Col 4, lines 43-47, Col 5, lines 17-25, Col 6, lines 20-26) which is believed to clearly disclose the concept of a flexible backing, i.e. polyurethane, having suction cup pores on one outer surface and an adhesive layer on the opposing outer surface, which backing is suitable for use as a thin, flexible grip enhancing material.

4. The four Terminal Disclaimers presented by applicant have each been approved.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Zirker whose telephone number is 571-272-1486. The examiner can normally be reached on Monday - Thursday from 8:30 to 6:00. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris, can be reached on 571 - 272 - 1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Daniel Zirker  
Primary Examiner  
Art Unit 1771

